GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Smt. T. Kuppamma D/o T. Venkateswarlu against the proceedings No.(C3) D.Dis./5680/92, dated 17.09.1996 of the Joint Collector, Chittoor under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders - Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.MS.No. 53 Dated: 02-05-2018
Read the following:

1. Proceedings of the Joint Collector, Chittoor, (C3) D.Dis./5680/92, dated 17.09.1996.
2. The Orders of APHC, in WP No. 6436 and 5569 of 2000 dated 03.11.2008 filed by Smt. T. Shyamalamma W/o A.Bhaskara Reddy.
3. Revision Petition filed by Smt. T. Kuppamma D/o T.Venkateswarlu, H.No.19.9.61/B5, Opp: D.E. Operation, SPDCL., old Tiruchanur Road, Tirupathi, Chittoor District before M(TW&RIAD) on 15.12.2008.
4. Govt. Memo No.11991/CV.2/2008, dt.01.01.2009.
5. From the District Collector, Chittoor, Roc.C3/513/2009, dt. 08.02.2010 & 30.04.2010.
6. Govt. Memo No.11991/CV.2/2008, dt.28.04.2012,13.10.2014, 24.11.2014, 23.02.2015, 02.04.2015, 26.04.2016, 05.12.2016 & 18.08.2017.

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ORDER:

In the reference 1st read above, the District Collector, Chittoor has issued orders cancelling ST-Konda Kapu caste certificate obtained from the then Mandal Revenue Officer Chittoor in the year 1974 by Smt. T.Kuppamma, W/o K. Doraswamy Reddy.

2. In the reference 2nd read above, Smt. T. Shyamalamma W/o A. Bhaskara Reddy has filed W.P.No.6436 and 5569 of 2000 before the Hon'ble High Court of A.P., Hyderabad against the proceedings No. (C3) D.Dis./5680/92, dated 17.09.1996 of the Joint Collector, Chittoor. The Hon'ble High Court of A.P., Hyderabad while disposing the said WP on 03.11.2008 has directed the petitioners were permitted to prefer a review to the Government in accordance with the aforesaid statutory provisions. In case, the petitioners prefer a review within a period of four weeks from the date of receipt of a copy of the order, the Government, shall, after complying with all the statutory requirements, decide the review, in accordance with law, within a period of four months thereafter. Pending final orders being passed by the Government in this regard and, since this Court passed an interim order in W.P.No.5569 of 2000 as early as on 11-08-2000 which order continues to subsist for the past eight years, it is but appropriate that the interim order be continued till final orders are passed by the Government. Since the petitioner in W.P.No.6436 of 2000 has suffered an order of compulsory retirement and is no longer in service, her entitlement to the tribal status, or for other benefits, would depend on the outcome of the orders passed by the Government in the review proceedings. But, due to several administrative difficulties the matter could not be disposed off within the time limit as directed by the Hon'ble High Court in the said W.P., however, after giving notices from time to time to the Appellant through his Counsel the matter has been examined by the Appellate Authority.

3. In the reference 3rd read above, Smt. T.Kuppamma, W/o K. Doraswamy Reddy, has filed an Review Petition before the Government against the Proceedings of the District Collector, Chittoor. After examining the said Review Petition, Government have admitted the Review Petition as per the directions of the Hon'ble High Court of A.P., Hyderabad in W.P.No.6436 and 5569 of 2000, dated 03.11.2008 and called for the parawise remarks and connected records from the District Collector, Chittoor in the reference 4th read above.

[P.T.O]

4. In the reference 5th read above, the District Collector, Chittoor has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Smt. T.Kuppamma, W/o K. Doraswamy Reddy.

5. The said Appeal Petition has been posted for hearing on 10.05.2012, 25.10.2014, 13.12.2014, 28.02.2015, 18.04.2015, 14.05.2016, 24.12.2016 and finally on 16.09.2017 and the same has been informed to the Appellant and the Counsel for the Appellant in the reference 6th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government.

6. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by the District Collector, Chittoor and proceedings of the Joint Collector, Chittoor dated 17.09.1996 the Appellate Authority is observed that :

I. The appellant in her grounds has stated that her ancestors belong to Kondakapu by caste and originally they were native of Timmapuram village, S.Rayavaram Mandal of Visakhapatnam District and further the enquiry conducted by District Collector Visakhapatnam vide proc. Rc.No.807/95/T/Dt. 28.8.1995 clearly shows the same. Further she has stated that her father viz., Sri.T.Venkateshwarlu joined in the Police Department in the year 1924 as a Kondakapu and he worked in several places and ultimately he was transferred to chittoor town and all her brothers and sisters records clearly show that our family is Kondakapu. Further earlier enquiries clearly shows that her social status as ST as such the authority ought not to have canceled her caste certificate at the juncture without verifying earlier records.

II. The District Level Scrutiny Committee has observed that it has been in vogue that the caste of the children was recorded by school authorities basing on the oral statement of the parents of the students at the time of admission. But as per law and rules, the caste certificate shall be issued by the Competent Authority in Revenue Department, not below the rank of the Mandal Revenue Officer/ Tahsildar and in case of some categories of STs, the Divisional Level Officer are empowered to issue such certificate. In this case the father of the revision petitioner might have got the caste of the revision petitioner recorded as “Kondakapu” instead of “Kapu” intentionally to get the benefits provided to ST community by mischief or by fraud. Further it is notable that no record is available in offices, Police Department, that the father of the revision petitioner was worked in Police Department belongs to Kondakapu. As such it is proved beyond doubt that neither the petitioner not her father belongs to Kondakapu caste. The then Tahsildar, Chittoor, has issued caste certificate to the revision petitioner without conducting a comprehensive enquiry on the claim. Further as could be seen from the migration certificate alleged to have been issued by the MRO, S.Rayavaram vide R.Dis.11/93, dt.11.01.1993, it is never mentioned in the certificate that the revision petitioner or her father or fore fathers belongs to Kondakapu caste, that there are no families of STs in the village as on the date of issue of the certificate and further relied only on the statements of elders of the village for his report. The revision petitioner has never produced the valid evidence/ proof that his father belongs to Kondakapu. Further she never produced the certificates of her brothers and sisters alleged to have been issued as Kondakapu by the authorities competent. If any certificate is issued to the brothers and sisters as Kondakapu they are also liable to be cancelled under misrepresentation and after comprehensive enquiry. Therefore it is beyond doubt that the caste of the father of the revision petitioner is naturally belongs to Kapu(OC) caste but not Kondakapu(ST) caste. Based on the findings of the DLSC, the Joint Collector has cancelled the appellant’s caste certificate.

[Contd.. on P.3]

III. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

IV. The Appellate Authority is observed that during the course of hearing of the case that the appellant submitted her arguments as per her grounds in appeal petition and stated that the lower authority failed to observe that her father and fore fathers belongs to Konda Kapu community which was identified as Schedule Tribe as such she also belongs to ST Konda Kapu. On verification of the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that except the above contention nothing was placed for appreciation of the case of the appellant and she failed to produce any evidence that her father and fore fathers belongs to ST Community. The school records of the appellant in any way not helpful to determine the caste of the appellant. It is further brought to the notice that the certificate earliest issued to the individual in a routine manner and the same was cancelled after conducting detailed and through enquiry into the caste status of the individual. That as per the act that the burden of proving that the appellant belongs to particular caste shall be on the appellant and it is the responsibility of the appellant to produce necessary evidence and documents to claim the same. In the instant case that the appellant except relaying the evidence filed before the lower authority failed to produce any additional material more particularly the evidence of her father caste for re-appreciation of the case on hand. As seen from the record the lower authority passed the order after reasonable appreciating the evidence available on record as per law which deserves no interference. Hence it is apparent that the appeal is devoid of any merits and there is no infirmity in the findings of the Learned Joint Collector, Chittoor District. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority passed the order as per law which does not deserve any interference.

7. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the appeal petition filed by Smt. T.Kuppamma, W/o K. Doraswamy Reddy, does not deserve any interference. Hence, Proceedings of the Joint Collector, Chittoor issued vide D.Dis./5680/92, dated 17.09.1996, is hereby upheld and the Appeal Petition filed by Smt. T.Kuppamma, W/o K. Doraswamy Reddy, is hereby dismissed .

8. The District Collector, Chittoor is directed to take necessary consequential action in the matter.

9. The records (containing D.Dis./5680/92, dated 17.09.1996 , pages: CF: 1-356 & NF: 1-44) received from the District Collector, Chittoor through in the reference 5th read above, are returned herewith in original to the District Collector, Chittoor and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, Chittoor.
(with original records) (BY RPAD)

The Tahsildar, Chittoor, Chittoor District .

[Contd.. on P.4]

Smt. T. Kuppamma D/o T.Venkateswarlu,
H.No.19.9.61/B5, Opp: D.E. Operation, SPDCL.,
Old Tiruchanur Road, Tirupathi, Chittoor.

The Superintendent of Post Office, Chittoor District.

Copy to

The Director, TCR& TI, AP, Hyderabad
The PS to Hon'ble Minister(SWE&TWE)
The PS to Principal Secretary(SW&TW)

// FORWARDED:: BY ORDER //

SECTION OFFICER